	Case 2:09-cv-00037-MJP Document 489	Filed 07/30/12 Page 1 of 6
1		THE HONORABLE MARSHA J. PECHMAN
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8		DISTRICT COURT T OF WASHINGTON
9	AT SE	ATTLE
10	IN RE: WASHINGTON MUTUAL	Master Case No.: C09-0037 (MJP)
11	MORTGAGE BACKED SECURITIES LITIGATION,	
12	This Document Relates to: ALL CASES	PLAINTIFFS' MOTION TO SEAL EXHIBIT 1 TO JASNOCH
13		DECLARATION IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO
14 15		PRECLUDE THE PROFFERED EXPERT TESTIMONY OF SCOTT D. HAKALA
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26	PLAINTIFFS' MOTION TO SEAL EXHIBIT 1 TO JAS	NOCH
27	DECLARATION IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO	SCOTT+SCOTT LLP
28	PRECLUDE THE PROFFERED EXPERT TESTIMONY OF SCOTT D. HAKALA Case No. C09-037 MJP	707 Broadway, Suite 1000 San Diego, CA 92101 Telephone: (619) 233-4565

Lead Plaintiffs Doral Bank Puerto Rico, Policemen's Annuity and Benefit Fund of the City of Chicago, and Boilermakers National Annuity Trust (collectively, "Plaintiffs") respectfully submit this Motion to Seal contemporaneously with the Opposition to Defendants' Motion to Exclude the Proffered Expert Testimony of Scott D. Hakala.

### PRELIMINARY STATEMENT

Plaintiffs respectfully request that the Court issue an Order sealing, in whole or in part, certain Exhibits to the Declaration of John T. Jasnoch (the "Jasnoch Declaration"), filed in in support of Plaintiffs' Opposition to Defendants' Motion to Preclude the Proffered Expert Testimony of Scott D. Hakala, pursuant to Local Civil Rule 5(g), Paragraph 16 of the Stipulated Protective Order and Stipulated Order Regarding the "Clawback" of Documents (the "Protective Order") (ECF No. 213) and applicable law. Plaintiffs seek to seal portions of Exhibit 1 to the Jasnoch Declaration, which contains nonpublic trading data and other information regarding customers of third-party financial institutions, which has been designated as "Confidential" by those third parties. This data is contained and discussed in Exhibit 1, which is the June 8, 2012 deposition of Scott D. Hakala. Plaintiffs have strictly limited the motion to seal to the information that may be required to be protected from disclosure under applicable law.

#### **ARGUMENT**

### I. Legal Standard

Under Paragraph 16 of the Protective Order and Local Civil Rule 5(g)(3), a party must obtain the Court's authority to file documents under seal, which "will be kept under seal only if the party presents 'compelling reasons' for preserving them under seal." Order on Motion to Seal [ECF No. 266] at 1-2 (citation omitted). Courts in the Ninth Circuit typically consider the following factors in determining whether such "compelling reasons" exist: "(1) the public's interest in understanding the judicial process; (2) whether disclosure of the material at issue could result in improper use (such as to incite scandal, libel a party, or enable infringement of a

PLAINTIFFS' MOTION TO SEAL EXHIBIT 1 TO JASNOCH

DECLARATION IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO

PRECLUDE THE PROFFERED EXPERT

TESTIMONY OF SCOTT D. HAKALA

Case No. C09-037 MJP

SCOTT+SCOTT LLP 707 Broadway, Suite 1000 San Diego, CA 92101 Telephone: (619) 233-4565

I	.		
1	party's trade secrets); (3) the interests of the parties and the balance of equities"; and (4) "the		
2	duty of the court to balance all of these competing interests and to inform the public of the basis		
3	for its decision." See California ex rel. Lo	ockyer v. Safeway, Inc., 355	F. Supp. 2d 1111, 1115
4	(C.D. Cal. 2005) (citing Nixon v. Warner Co	ommc'ns, Inc., 435 U.S. 589,	, 602-04 (1978)).
5	II. Documents to be Sealed Are Claimed to Be Subject to Confidentiality Protections of the Protective Order		
6	Exhibit 1 to the Jasnoch Declaration	n is the transcript of the Ju	ne 8, 2012 deposition of
7	Scott D. Hakala. This transcript contains several references to trading data which the third		
8	parties who produced the materials claim to be subject to confidentiality protections of the		
9	Protective Order. While Plaintiffs do not believe any of this material is, in fact, sensitive or		
10	confidential, this motion is being filed to comply with the terms of the Protective Order.		
11	CONCLUSION		
12	For the foregoing reasons, and on the basis of the authorities cited, Plaintiffs file this		
13	Motion to Seal Exhibit 1 to the Jasnoch Declaration in Support of Plaintiffs' Opposition to		
14	Defendants' Motion to Preclude the Proffered Expert Testimony of Scott D. Hakala.		
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16 17	Dated: July 30, 2012	Respectfully submitted, SCOTT+SCOTT LLP	
		/s/ Anne L. Box	
18		Anne L. Box (admitted <i>pro</i> John T. Jasnoch (admitted <i>p</i>	
19		SCOTT+SCOTT LLP	
20		707 Broadway, Suite 1000 San Diego, California 9210	1
21		Telephone: 619-233-4565 Fax: 619-233-0508	
22		Email: abox@scott-scott.c	
23		jjasnoch@scott-sco	ott.com
24			
25			
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28	PRECLUDE THE PROFFERED EXPERT TESTIMONY OF SCOTT D. HAKALA	_	707 Broadway, Suite 1000 San Diego, CA 92101 Telephone: (619) 233-4565

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Case No. C09-037 MJP

1 2 3		Beth Kaswan (admitted <i>pro</i> Amanda F. Lawrence (adm 500 Fifth Avenue, 40th Flow New York, New York 1011 Telephone: (212) 223-6444 Fax: (212) 223-6334	itted <i>pro hac vice</i> ) or 0
4		Email: bkaswan@scott-scot alawrence@scott-sc	
5		alawience@scott-sc	ott.com
6		COHEN MILSTEIN SEL TOLL PLLC	LERS &
7		Steven J. Toll	
8		Joshua S. Devore (admitted S. Douglas Bunch (admitted	_
9		1100 New York Avenue, N	-
		Suite 500, West Tower Washington, DC 20005	
10		Telephone: (202) 408-4600	
11		Fax: (202) 408-4699	
		Email: stoll@cohenmilstein	
12		jdevore@cohenmils	
13		dbunch@cohenmilst	em.com
14		Christopher Lometti (admit	
1.5		Daniel B. Rehns (admitted a 88 Pine Street, 14th Floor	pro hac vice)
15		New York, New York 1000	05
16		Telephone: (212) 838-7797	
17		Facsimile: (212) 838-7745	
1 /		Email: clometti@cohenmils	
18		drehns@cohenmilst	ein.com
19		Lead Counsel for the Class	
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28	TESTIMONY OF SCOTT D. HAKALA		San Diego, CA 92101
	Case No. C09-037 MJP	3	Telephone: (619) 233-4565

1		TOUSLEY BRAIN STEP: Kim D. Stephens, WSBA#	
2		Janissa A. Strabuk, WSBA 1700 Seventh Avenue, Suite	#21827
3		Seattle, Washington 98101 Telephone: (206) 682-5600	
4		Facsimile: (206) 682-2992	
5		Email: kstephens@tousley.com jstrabuk@tousley.com	
6		Liaison Counsel for Plaintij	fs and the Class
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28	PRECLUDE THE PROFFERED EXPERT TESTIMONY OF SCOTT D. HAKALA		707 Broadway, Suite 1000 San Diego, CA 92101
	Case No. C09-037 MJP	4	Telephone: (619) 233-4565

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### CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2012, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List, and I hereby certify that I caused the foregoing document or paper to be mailed via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 30, 2012.

/s/ Anne L. Box

Anne L. Box SCOTT+SCOTT LLP

707 Broadway, Suite 1000 San Diego, California 92101 Telephone: 619-233-4565

Fax: 619-233-0508

Email: abox@scott-scott.com

PLAINTIFFS' MOTION TO SEAL EXHIBIT 1 TO JASNOCH DECLARATION IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO PRECLUDE THE PROFFERED EXPERT TESTIMONY OF SCOTT D. HAKALA 5 Case No. C09-037 MJP

SCOTT+SCOTT LLP 707 Broadway, Suite 1000 San Diego, CA 92101 Telephone: (619) 233-4565